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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,503	10/29/2003	Gabriel Keita	ESOA:002US	5749
33425 7590 10/05/2009 FULBRIGHT & JAWORSKI L.L.P. 600 CONGRESS AVE. SUITE 2400 AUSTIN, TX 78701				
EXAMINER VARGOT, MATHEU'D				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
10/05/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/696,503

Applicant(s)

KEITA ET AL.

Examiner

Mathieu D. Vargot

Art Unit

1791

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-17, 20 and 23-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-17, 20 and 23-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. Claims 15-17, 20, 23-30 and 34-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 15 and 34 call for a method but it is not clear exactly what this method is and hence these claims and those dependent thereon are indefinite. Applicant should properly recite exactly what the method is designed to produce for clarity of the claims. Claim 34, line 12, the recitation "as soon as possible" concerning the rotation is vague, in that it is unclear exactly what such entails. Clarification is required of this language.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-17, 20, 23, 26-38 and 41-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese document 10-146,846 in view of either of Keita et al -689 or Magne -839 and Rice et al (see col. 11 lines 35-40) essentially for reasons of record as set forth in paragraph 2 of the last office action noting the following. It is maintained that a rotation of 180 degrees would have rendered obvious a rotation of "approximately 90 degrees" or one that is exactly 90 degrees. Any rotation of a mold system containing curable material therein would allow for a redistribution and restabilization of the material being cured and would have been an obvious step in the process of the primary reference. Note that the instant claims do not require that the rotation step be performed prior to polymerization but merely that such be done at some

point in the process. The limitation of instant claim 41 is met by JP -846. It is submitted that the exact time required to polymerize the composition would have been readily determined through routine experimentation dependent on the material and the exact curing procedure.

3. Claims 24, 25, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese document 10-146,846 in view of either of Keita et al -689 or Magne -839, Rice et al (see col. 11 lines 35-40) and Reed et al essentially for reasons of record as set forth in paragraph 3 of the last office action.

4. Applicant's arguments filed July 15, 2009 have been fully considered but they are not persuasive. Applicant submits that none of the cited references disclose a 90 degree rotation and hence the claims must be allowed thereover. However, as best understood, the rotation simply distributes the material to some extent and allows any air bubbles therein to also be redistributed, or that such bubbles will not go to the center of the material. However, it is submitted that such would also occur in the polymerization and rotation of Rice et al. Given that the material has not yet polymerized, any air bubbles or inclusions would naturally be redistributed upon rotation and hence would naturally be prevented from reaching the center of the cured product. It is also not clear exactly why the curing of Japanese -846 and that of Rice et al would be non-analogous. Both references deal with curing a polymerizable lens composition and one of ordinary skill in the art would have reasonably expected that a rotation in one method would have beneficial results in the other.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
September 30, 2009

/Mathieu D. Vargot/
Primary Examiner, Art Unit 1791